

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

AARON THOMAS,	)	
	)	
Petitioner,	)	
v.	) Civil Action No. 10-3298-CV-S-DW-H	
MARTY C. ANDERSON, Warden,	)	
United States Medical Center,	)	
	)	
Respondent.	)	

**REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges actions of the Bureau of Prisons [“BOP”]. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has failed to state a constitutional violation, it will be recommended that he be denied leave to proceed in forma pauperis.

After a Show Cause Order was entered, the United States filed its response. Subsequently, counsel for petitioner filed a motion to withdraw. Petitioner filed a pro se traverse in which he reasserted the allegations of his original petition.

As grounds for relief in habeas corpus, petitioner alleges that he has been wrongfully denied placement in a Residential Re-entry Center [“RRC”] pursuant to the Second Chance Act, 18 U.S.C. § 3624 ( c).

It is the government’s response that petitioner has no constitutional right to be housed in an RRC, nor does the BOP have any obligation to place an inmate in an RRC for all or even part of the community transition period. It is asserted that because petitioner has a history of possession of cocaine and failing to submit to drug testing, this places him as a threat to the community, and

therefore, pursuant to Program Statement 7310.04, he is ineligible for RRC placement.

Having fully reviewed the record, the Court finds that petitioner has failed to state a constitutional violation for which habeas corpus relief is available. In this case, there is no indication that the method by which the BOP handled his request is arbitrary and capricious, or constitutes an abuse of discretion, sufficient to establish a constitutional violation. Additionally, it is clear that his case was evaluated on an individual basis. The BOP relied on information that indicates that petitioner has a past history of drug possession and failing to submit to drug testing. Additionally, the record does not support his claim that he was denied access to the administrative remedy process. Therefore, the Court finds that petitioner has failed to state a constitutional violation, and that it must be recommended that the petition for habeas corpus relief be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.<sup>1</sup>

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,  
RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition herein for a writ of habeas corpus be dismissed without prejudice.

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/s/ James C. England  
JAMES C. ENGLAND  
UNITED STATES MAGISTRATE JUDGE

Date: 10/14/10

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<sup>1</sup> Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.